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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of June 1, 1975

between

General Electric Company

and

National Railroad Passenger Corporation

Guaranty by Department of Transportation

25 General Electric Diesel-Electric Locomotives

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CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of June 1, 1975, between GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called the "Builder" or "Vendor," as more particularly set forth in Section 22 hereof), and NATIONAL RAILROAD PASSENGER CORPORATION, a corporation organized under the Rail Passenger Service Act, as amended, and the laws of the District of Columbia (hereinafter called the "Railroad").

WHEREAS, the Builder has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A hereto (hereinafter individually called a "Unit" or "Unit of the Equipment" and collectively called the "Equipment"); and

WHEREAS, pursuant to the terms of a Sale and Lease Back Agreement (hereinafter called the "Sale and Lease Back Agreement") dated as of June 1, 1975, between the Railroad and Seattle-First National Bank, a national banking association, as Trustee (hereinafter, together with any successor thereto, called the "Trustee") under a Trust Agreement dated as of May 1, 1975, the Railroad has agreed to sell to the Trustee, subsequent to its purchase hereunder and as permitted by Section 14 hereof, all of its rights, title and interest as the owner of the Equipment and certain of its rights under this Agreement, and to lease the Equipment back from the Trustee pursuant to the terms of an Equipment Lease (hereinafter called the "Equipment Lease") dated as of June 1, 1975, between the Railroad and the Trustee, and the Trustee has agreed to purchase the Equipment and such rights from the Railroad, to lease the Equipment back to the Railroad pursuant to the Equipment Lease and to pay for the Equipment in the manner set forth in Section 3 of the Sale and Lease Back Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

SECTION 1. *Construction and Sale.* Pursuant to this Agreement, the Builder shall construct the Equipment at its plant in Erie, Pennsylvania, and will sell and deliver to the Railroad, and the Railroad will purchase from the Builder and accept delivery of and pay for (as hereinafter provided) the Equipment, each Unit of which shall be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each Unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications reasonably interpreted as being applicable to railroad equipment of the character of such Units of the Equipment, and each Unit of the Equipment will be new railroad equipment.

SECTION 2. *Inspection and Delivery.*

2.1 The Builder will deliver the Units of the Equipment to the Railroad at the place specified in Schedule A hereto, in accordance with the delivery schedule set forth in Schedule A hereto; *provided, however*, that the Builder shall have no obligation to deliver any Unit of the Equipment hereunder at any time after any event of default (as described in Section 15 hereof), or event which with the lapse of time or demand could constitute such an event of default, shall have occurred.

2.2 The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

2.3 Notwithstanding the preceding provisions of this Section 2, any Unit of the Equipment not delivered, accepted and settled for pursuant to Section 3 hereof after June 1, 1975, and on or before December 31, 1975, shall be excluded herefrom. If any Unit of the Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Railroad and the Builder shall execute an agreement supplemental hereto limiting this Agreement to the Units of the Equipment not so excluded herefrom. If the Builder's failure to deliver a Unit of Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Unit of the Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Unit of the Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Unit of the Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to the Builder.

2.4 During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the Equipment and workmanship in accordance with the standard quality control practices of the Builder. Upon completion of each Unit or of a number of Units of the Equipment, such Unit or Units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such Unit or Units, and if each such Unit conforms to the Specifications, requirements and standards applicable thereto, such inspector, who shall be an authorized representative of the Railroad, shall execute and deliver to the Builder a certificate of acceptance in the form of Exhibit 1 hereto (hereinafter called the "Certificate of Acceptance") stating that such Unit or Units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Section 6 hereof; *provided, however*, that the Builder shall not thereby be relieved of its warranties referred to in Schedule B hereto, which is hereby incorporated by reference.

2.5 On delivery of each such Unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such Unit; *provided, however*, that the Builder shall not thereby be relieved of its warranties referred to in Schedule B hereto.

SECTION 3. *Purchase Price and Payments.*

3.1 The base price or prices per Unit of the Equipment, exclusive of interest, are set forth in Schedule A hereto. The base price or prices, which shall exclude freight charges, if any, from the Builder's plant to the point of delivery, are subject to such increase or decrease as may be agreed to by the Builder and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Section 3) the Average Cost (as hereinafter defined) would, but for the provisions of this sentence, exceed \$610,000.00, the Builder (and any assignee of the Builder) will, upon request of the Railroad, enter into an agreement excluding from this Agreement such Unit or Units of the Equipment then proposed to be settled for and specified by the Railroad, as will, after giving effect to such exclusion, reduce such Average Cost to not more than \$610,000.00, and the Railroad agrees to purchase any such Unit or Units so excluded from this Agreement from the Builder for cash on the date such Unit or Units would otherwise have been settled for under this Agreement either directly, or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to the Builder. *Provided, however*, that any waiver by the Railroad of its right in the immediately preceding sentence to exclude a Unit or Units of the Equipment from this Agreement shall not be deemed a waiver of such right with respect to any other Unit or Units of the Equipment for which settlement is then or thereafter being made. "Average Cost" shall mean that amount determined by dividing

(x) the aggregate of the Invoiced Purchase Price (as hereinafter defined) for which settlement has theretofore been and is then being made under this Agreement by (y) the number of Units of the Equipment for which settlement has theretofore been and is then being made under this Agreement.

3.2 The Equipment shall be settled for in such number of groups of the Equipment delivered to and accepted by the Railroad after June 1, 1975, and on or before December 31, 1975, as may be agreed upon by the parties hereto (each such group being hereinafter called a "Group").

3.3 The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment as follows:

a. On each Closing Date (as hereinafter defined) with respect to a Group (i) an amount equal to 30.25% of the aggregate Purchase Price of the units in such Group, plus (ii) the amount by which (x) the Purchase Price of all units of Equipment for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being herein called the "Invoiced Purchase Prices"), exceeds (y) the sum of \$10,636,875.00 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

b. In twenty-six (26) consecutive semiannual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the Units of the Equipment in the Group for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

3.4 The installments of the portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (said portion of the aggregate Purchase Price for such Equipment being herein called the "Conditional Sale Indebtedness") shall be payable semiannually following December 31, 1975, on July 2 and December 31 of each year commencing July 2, 1976, (or if any such date is not a business day on the next succeeding business day), each such date being hereinafter called a "Payment Date." The unpaid balance of the Conditional Sale Indebtedness shall bear interest (i) from and including the Closing Date (as hereinafter defined) in respect of which such indebtedness was incurred until fully paid at the rate of 7.92% per annum (the "Debt Rate"). Interest incurred to December 31, 1975 shall be payable on that date and interest accruing on and after December 31, 1975 shall be payable on each Payment Date thereafter. The principal amount of Conditional Sales Indebtedness payable on each Payment Date shall be calculated on such a basis that the aggregate of the principal and interest payable on each Payment Date shall be substantially equal and such 26 installments of principal will completely amortize the Conditional Sale Indebtedness.

3.5 The term "Closing Date" with respect to any Group shall mean such date (after June 1, 1975, and on or prior to December 31, 1975), not more than ten business days following presentation by the Builder to the Railroad of the invoice or invoices and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Railroad by written notice delivered to the Vendor at least three business days prior to the Closing Date designated therein; *provided, however*, that there shall not be more than one closing in any one calendar week. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in the city and state in which the principal office of the Vendor, the Trustee or the Railroad is located are authorized to remain closed.

3.6 Interest under this Agreement shall be calculated on the basis of a 365-day year and actual days elapsed.

3.7 The Railroad will pay, to the extent legally enforceable, interest at the rate of 7.92% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

3.8 All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Section 7 hereof, the Railroad shall not have the privilege of prepaying any installment of its indebtedness hereunder prior to the date it becomes due.

SECTION 4. *Taxes.* The Railroad agrees to pay and discharge (and does hereby agree to indemnify and hold the Vendor harmless from and against) all sales, use, personal property, excise, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon, unless resulting from the Vendor's action or failure to act) imposed against the Railroad, the Vendor or the Equipment by any foreign, Federal, State or local governmental taxing authority upon or with respect to the Equipment or upon the purchase, ownership, delivery, lease, possession, rental, use, operation, return, sale or transfer of title to the Railroad under the terms hereof, or upon the rentals or receipts arising therefrom or the payments made hereunder (excluding, however, foreign, Federal, state and local taxes on, or measured by, the net income of the Vendor); *provided however*, that the Railroad shall not be required to pay or discharge any such tax, levy, impost, duty, charge or withholding so long as it shall, in good faith and by appropriate administrative or legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the security interest of the Vendor in the Equipment, and the Railroad shall reimburse the Vendor for any damages or expenses resulting from such failure to pay or discharge. The Railroad agrees to assist the Vendor in the preparation of and, when possible, to file on behalf of the Vendor, all required tax returns and reports relating to taxes for which the Railroad is responsible under this Section 4. The Vendor shall keep the Railroad informed of any claim made against the Vendor for the payment of any such tax, levy, impost, duty, charge or withholding. The obligations of the Railroad contained in this Section 4 shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of Vendor's security interest in, the Equipment, as provided in Section 5 hereof, or the termination of this Agreement in any manner whatsoever.

SECTION 5. *Title to and Security Interest in the Equipment.*

5.1 The Vendor shall and hereby does retain a security interest in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of parts of the Equipment and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement, subject, however, to the provisions of Section 8 hereof.

5.2 Except as otherwise specifically provided in Section 7 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of the Equipment shall pass to the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute an instrument or instruments releasing or discharging, as the case may be, all liens, security interests and other encumbrances on or in the Equipment created or retained hereby, and deliver such instrument or instruments to the Railroad at its address referred to in Section 19 hereof; (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment; and (c) pay to the Railroad any money paid to the Vendor pursuant to Section 7 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeiture or

damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 6. *Marking of the Equipment.*

6.1 The Railroad will cause each Unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment. The Railroad will not change the number of any Unit of the Equipment except in accordance with a statement of the new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

6.2 Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any Unit of the Equipment as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

SECTION 7. *Casualty Occurrences and other Prepayment.*

7.1 In the event that any Unit of the Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Railroad, irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise for a period of ninety (90) consecutive days (any such occurrence being hereinafter called a "Casualty Occurrence") prior to the payment of the full Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, the Railroad shall, promptly after it shall have determined that such Unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in writing in regard thereto and on the next succeeding date for payment of interest under Section 3 hereof, shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined) of such Unit or Units of the Equipment as of the date of such payment. At the time of each payment of Casualty Value hereunder, the Railroad shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of the Units covered thereby. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay the Conditional Sale Indebtedness and the Railroad will promptly furnish to the Vendor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request, calculated as provided in the fourth paragraph of Section 3 hereof, so that the aggregate of the principal and interest payable on each remaining Payment Date shall be substantially equal and the remaining principal payments will completely amortize the Conditional Sale Indebtedness.

7.2 Upon payment by the Railroad to the Vendor of the Casualty Value of any Unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of such Unit shall pass to and vest in the Railroad, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Railroad, will execute and deliver to the Railroad, at the expense of the Railroad, an appropriate instrument confirming such passage to the Railroad of all the Vendor's right, title and interest in such Unit and the release of Vendor's security interest therein, in recordable form, in order that the Railroad may make clear upon the public records the title of the Railroad to such Unit.

7.3 The "Casualty Value" of each Unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Section 7 with respect to any other Unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Section 3 hereof shall be deemed to be a payment on each Unit of the Equipment in like proportion as the original Purchase Price of such Unit bears to the aggregate original Purchase Price of the Equipment.

7.4 In the event the Vendor receives any insurance proceeds under Section 20.1 of the Equipment Lease in respect of a Casualty Occurrence, such proceeds shall be applied in the manner provided in the first paragraph of this Section 7 and shall be deducted from the amount payable hereunder, or, if such proceeds are received after full payment under this Section 7, such proceeds shall be paid to the Railroad.

SECTION 8. Maintenance; Compliance with Laws and Rules. The Railroad shall use or cause the use of the Equipment only in the United States, except that the Railroad may from time to time use or cause to be used in Canada Units of the Equipment *provided* that during any calendar year the total use of the Equipment in Canada shall not exceed, on an aggregate basis, more than 2% of the total aggregate use of the Equipment in the United States and Canada. The Railroad shall use the Equipment only in the manner for which it was designed and intended. The Railroad shall, at its own cost and expense, maintain and keep the Equipment and any Modification thereto (as defined in Section 2.2 of the Equipment Lease) in good order, condition and repair, ordinary wear and tear excepted, and in accordance with standards generally prevailing in the railroad industry, including making all replacements required to maintain the Equipment in good running order. The Railroad agrees to comply in all material respects with all applicable governmental laws, regulations, requirements and rules (including the rules of the Department of Transportation) with respect to the use and maintenance of each Unit of the Equipment and not to cause or permit any Unit of Equipment to be operated in violation of such law, regulations, requirements and rules. In case any equipment or appliance on any such Unit of Equipment shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit of the Equipment in order to comply with such laws, regulations, requirements and rules, the Railroad agrees to cause such changes, additions and replacements to be made at no cost to Vendor, *provided, however*, that the Vendor's rights hereunder are subject to the Railroad's rights as Lessee under the Equipment Lease to purchase the Equipment pursuant to Sections 3, 7.1, 8 and 22.1 thereof. Any parts installed or replacements made by the Railroad upon any Unit of the Equipment (except radio equipment or devices having a similar use which have been added to any such Unit of the Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Unit and except Lessee Improvements as defined in Section 2.2 of the Equipment Lease) shall be considered accessions to such Unit of the Equipment and a security interest therein shall be immediately vested in the Vendor as provided in Section 5 hereof, without cost or expense to the Vendor, *provided* that the Railroad shall be entitled to remove any such accession so long as such removal is not inconsistent with the Railroad's obligations set forth in the preceding sentences of this Section 8 and its obligations under Sections 7 and 8 of the Equipment Lease.

SECTION 9. Reports and Inspection Rights.

9.1 On or before April 1 in each year, commencing with the year 1976, the Railroad shall furnish to the Vendor an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Units of the Equipment covered hereby, the amount, description and numbers of all Units of the Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or, in the case of the first such statement, for the portion thereof commencing with the date of this Agreement), and such other information regarding the condition or repair of the Equipment as the Vendor may reasonably request; and (b) stating that, in the case of all Equip-

ment repainted during the period covered by such statement, the markings required by Section 6 hereof shall have been preserved or replaced. The Vendor shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Vendor the existence and proper maintenance thereof during the continuance of this Agreement. The foregoing right of inspection shall be subject, however, to such terms and conditions of access as may be reasonably imposed by any railroad, terminal company or other entity upon the property on which the Equipment is situate at the time of any such inspection. Vendor agrees to indemnify and hold harmless the Railroad, its affiliates, directors, officers, agents, employees, servants and contractors from and against any claim, cause of action, damages, liability, cost or expense (including counsel fees and costs in connection therewith) which may be incurred in any manner (whether arising from personal injury, property damage or otherwise) which is in any way, directly or indirectly, attributable to the exercise of such right of inspection.

SECTION 10. *Use and Possession.* So long as the Railroad shall not be in default hereunder, the Railroad shall be entitled to the possession and use of the Equipment (by itself or by others on its behalf) in accordance with the terms hereof upon the rail lines over which the Railroad conducts, or has conducted for it, rail passenger service.

SECTION 11. *Prohibition Against Liens.*

11.1 The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns, including without limitation claims for taxes, assessments or governmental charges or levies, which, if unpaid, might constitute or become a lien, charge or security interest on the Equipment, or any Unit thereof, equal or superior to the Vendor's security interest therein, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate administrative or legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

11.2 This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

SECTION 12. *Railroad's Indemnities.* The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of a security interest in the Equipment, the use and operation thereof by the Railroad during the period when the security interest therein remains in the Vendor or the transfer of the security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in the Equipment as provided in Section 5 hereof, or the termination of this Agreement in any manner whatsoever.

SECTION 13. *Patent Indemnities; Builder's Warranties of Material and Workmanship.* All agreements in respect of patent indemnities and warranties of design, material and workmanship are set forth in the Specifications and in Schedule B hereto and are hereby incorporated by reference.

SECTION 14. *Assignments.*

14.1 The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement, or, except as provided in Section 10 hereof, transfer the right to possession of any Unit of the Equipment without first obtaining the written consent of the Vendor. A sale, assignment, transfer or disposition to (1) a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all of the property of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of and all the obligations and covenants of the Railroad under this Agreement, or (2) the Trustee pursuant to the Sale and Lease Back Agreement, shall not be deemed a breach of this covenant; *provided, however*, that the Railroad shall not be released from any of its obligations hereunder and the obligations assumed by the Trustee shall be limited as provided in the Sale and Lease Back Agreement.

14.2 All of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance with this Agreement or to respond to its warranties and agreements contained or referred to in Section 13 hereof, or relieve the Railroad of any of its obligations to the Builder under Sections 1, 2, 3, 4, 12, 13 and 14, hereof or of any other obligation which, according to its terms and context, is intended to survive an assignment.

14.3 Upon any such assignment, either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall be made to the assignee in such manner as it may direct.

14.4 The Railroad recognizes the contemporaneously herewith and pursuant to the terms of an Agreement and Assignment (hereinafter called the "Agreement and Assignment") dated as of the date hereof, between Builder and Federal Financing Bank, Builder will assign all of its rights, benefits and advantages under this Agreement to Federal Financing Bank. The Railroad consents to such assignment and expressly represents to Federal Financing Bank for the purpose of inducing it to enter into the Agreement and Assignment, the rights of Federal Financing Bank to the entire unpaid indebtedness in respect of the Purchase Price, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Builder.

14.5 The Railroad will (a) in connection with each settlement for the Equipment deliver to Federal Financing Bank, at the time of delivery of notice fixing the Closing Date for such Equipment, all documents reasonably required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to Federal Financing Bank such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

14.6 If the Builder does not receive payment with respect to Units of the Equipment as provided in the Agreement and Assignment, the Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously received, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such Units, together with interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest of leading New York City banks in effect on the date such payment was due.

SECTION 15. *Defaults.*

15.1 In the event that any one or more of the following events of default shall occur and be continuing, to wit:

a. The Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within 10 days after payment thereof shall be due hereunder; or

b. The Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

c. A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

d. Any other proceeding shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

e. The Railroad shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any Unit of the Equipment; or

f. The Government Guaranty (as defined in the Lease) shall, for any reason, cease to be in full force and effect;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a "Declaration of Default") the entire

indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Overdue Rate (as defined in Section 3 hereof), to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of the Equipment or any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

15.2 The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 16. *Remedies.*

16.1 At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the Units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 16 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal all supplies, services and aids and any available trackage and other facilities or means of the Railroad.

16.2 In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon railroad tracks as to which the Railroad then has a contractual right of access, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points upon such railroad tracks as shall be designated by the Vendor and shall there make available the Equipment or cause it to be made available to the Vendor. At the option of the Vendor, the Vendor may for a period not exceeding 90 days keep the Equipment on any of the premises of the Railroad or upon railroad tracks as to which the Railroad then has a contractual right of access until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any Unit of the Equipment in any reasonable manner.

16.3 At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Section 16 provided) may, at its election and upon such notice as hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad

by telegram or registered mail, addressed as provided in Section 19 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; *provided, however*, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; *provided, further*, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section 16.

16.4 At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any Unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

16.5 Any sale hereunder may be held or conducted at New York, New York at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Section 19 hereof. If such sale shall be a private sale, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any Unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Railroad hereunder.

16.6 Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously

and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

16.7 If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, and, if the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

16.8 The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

16.9 The foregoing provisions of this Section 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

SECTION 17. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and security agreement and enforced as such.

SECTION 18. *Recording.* The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada with notice of such deposit being given in the Canada Gazette in accordance with said Section 86 (or appropriate provision made therefor); and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its security interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement.

SECTION 19. *Notice.* Any notice hereunder to any party designated below shall be deemed to be properly served if delivered to it at its address below:

a. To the Railroad, at 955 L'Enfant Plaza North, S.W., Washington, D.C. 20024, attention: Secretary.

b. To the Builder at General Electric Company, Transportation Systems—Business Division, 2901 East Lake Road, Erie, Pennsylvania 16531.

c. To Federal Financing Bank in care of Department of Treasury, Main Treasury Building, Room 3124, Washington, D.C. 20220, attention: Secretary of Federal Financing Bank.

d. To any assignee of Federal Financing Bank or of the Railroad, at such address as may have been furnished in writing to the Railroad or Federal Financing Bank, as the case may be, by such assignee.

Or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

SECTION 20. *Section Headings; Effect and Modification of Agreement.*

20.1 The table of contents and all Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

20.2 This Agreement, including the Schedules hereto (and the Specifications identified in Schedule A hereto), exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

SECTION 21. *Law Governing.* The Railroad warrants that its chief place of business and its chief executive office are located in the District of Columbia. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the District of Columbia; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof, as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 22. *Definitions.* The term "Vendor" whenever used in this Agreement, means, before any assignment of any of its rights hereunder, General Electric Company and any successor or successors for the time being to its manufacturing properties and business; and after such assignment by Builder to Federal Financing Bank pursuant to the Agreement and Assignment, means Federal Financing Bank, its successors and assigns (herein "Federal Financing Bank"); and the term "Builder" whenever used in this Agreement, means, both before and after any such assignment, General Electric Company, and any successor or successors for the time being to its manufacturing properties and business. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto to the extent provided herein.

SECTION 23. *Approvals of Administrator and Trustee.* The parties agree that before any amendment or modification of this Agreement, or any assignment or transfer of the interest of the Railroad hereunder (other than to the Trustee pursuant to the Sale and Lease Back Agreement), becomes effective, the Administrator (as defined in Section 2.1 of the Equipment Lease) and the Trustee must approve the same in writing, which approval shall not be unreasonably withheld. In the event of an assignment or transfer of the Vendor's interest herein, the transferee or assignee of such interest, and any subsequent transferees or assignees, must obtain the approval of the Administrator before any such transfer or assignment becomes effective, *provided, however,* that such approval shall not be required in respect to any transfer or assignment of the Lender's interest herein (i) by Builder pursuant to the Agreement and Assignment, (ii) by the Federal Financing Bank, or (iii) with respect to any such transfer or assignment to insurance companies, commercial and savings banks, pension funds, financial institutions of recognized standing organized under the laws of the United States or any state thereof, or any agency or instrumentality of the United States government.

SECTION 24. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested.

[CORPORATE SEAL]

Attest:

J. E. Hough
Attesting Secretary

[CORPORATE SEAL]

Attest:

Watson M. Smith
Authorized Officer

GENERAL ELECTRIC COMPANY

By

C. S. Bressler
~~Authorized Officer~~
Manager-Marketing
Locomotive Products Department

NATIONAL RAILROAD PASSENGER CORPORATION

By

Don R. Grazier
Authorized Officer

COMMONWEALTH
OF PENNSYLVANIA
COUNTY OF ERIE

} ss

On this ~~1st~~ ^{July} day of ~~June~~, 1975, before me personally appeared *C. S. Bressler*, to me personally known, who, being by me duly sworn, says that he is a *Manager-Marketing* of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Margaret M. Frew
NOTARY PUBLIC in and for the Commonwealth of Pennsylvania.

MARGARET M. FREW, Notary Public
Erie, Erie Co., Pa.
residing at My Commission Expires ~~June 7, 1976~~

My commission expires

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } ss

On this 8th day of July, 1975, before me personally appeared Don R. Brazier,
to me personally known, who, being by me duly sworn, says that he is a Treasurer
of NATIONAL RAILROAD PASSENGER CORPORATION, that one of the seals affixed to the foregoing instru-
ment is the corporate seal of said corporation, that said instrument was signed and sealed on behalf
of said corporation by authority of its Board of Directors; and he acknowledged that the execution
of the foregoing instrument was the free act and deed of said corporation.

Wayne J. Russell
NOTARY PUBLIC in and for the District of Columbia.

My commission expires 9-30-76

EXHIBIT 1

CERTIFICATE OF ACCEPTANCE

To GENERAL ELECTRIC COMPANY, and SEATTLE-FIRST NATIONAL BANK, a national banking association, as Trustee under Trust Agreement dated as of May 1, 1975.

I, a duly appointed inspector and authorized representative of NATIONAL RAILROAD PASSENGER CORPORATION ("Railroad"), for the purpose of the Conditional Sale Agreement dated as of June 1, 1975, between General Electric Company and the Railroad, and the Equipment Lease dated as of June 1, 1975, between Seattle-First National Bank, a national banking association, Trustee under the Trust Agreement dated as of May 1, 1975, as Lessor, and the Railroad, as Lessee, do hereby certify that I have inspected, received, approved and accepted delivery of, on behalf of the Railroad under the Conditional Sale Agreement and (subject to delivery by the Railroad to said Lessor of a bill of sale therefor) the Equipment Lease, the following units of Equipment:

MANUFACTURER

TYPE OF EQUIPMENT

PLACE ACCEPTED

DATE ACCEPTED

NUMBER OF UNITS

NUMBERED

I do further certify for the foregoing purpose, that the foregoing Equipment is in good order and condition, and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation requirements and specifications and that each locomotive included therein has been numbered in accordance with Section 6 of the Conditional Sale Agreement and Section 4.2 of the Equipment Lease.

The execution of this certificate will in no way relieve or decrease the responsibility of the manufacturers of the Equipment for any warranties they have made with respect to the Equipment or for any other obligations which they now or may hereafter have to the Railroad.

DATED:....., 1975

.....
Inspector and Authorized Representative of
NATIONAL RAILROAD PASSENGER CORPORATION

SCHEDULE A

DESCRIPTION OF EQUIPMENT

Type	Quantity	Manufacturer's Specifications	Place of Acceptance	R.R. nos.	Unit Price†	Total Price	Deliver
3000 hp. Diesel Electric Locomotive Model P30CH	25	Builder's Specification No. 3685, June 7, 1974 and Proposition 354D-466 dated June 7, 1974. Lessee's request for quotation X-RAD-130-01 dated 5/10/74 and Purchase Order WWJ-4171-048 dated Sept. 27, 1974 and supplements thereto.	Erie, Pennsylvania	700 through 724 (both inclusive)	\$600,468	\$15,011,700	4 Locomotives in June, 1975; 11 Locomotives in July, 1975; 10 Locomotives in August, 1975.

*The term "unit of Equipment" as used in this Conditional Sales Agreement shall mean a locomotive described above, including the signal equipment installed therein.

†Exclusive of fuel and freight.

SCHEDULE B

BUILDER'S WARRANTY

Item 1.

(a) *General.* The Builder warrants that the Equipment is of the kind and quality described in, or will be built in accordance with, the Specifications referred to in Section 1 of the Conditional Sale Agreement to which this Schedule B is attached (hereinafter in this Schedule B called the Agreement) and is suitable for the ordinary purposes for which the Equipment is used and warrants each Unit of the Equipment against any defects or any failures caused by faulty or inadequate design, poor workmanship or poor material for a period of two years from date of Railroad's acceptance of each Unit of Equipment, or 350,000 miles, whichever comes first. In addition the car body, wiring and trucks shall be covered by extended warranty for ten years. Any part or parts thereof that prove inadequate, insufficient or defective either in design, material or workmanship during the period of guarantee shall be replaced by the Builder without expense to the Railroad at the shops designated by the Railroad. The above shall apply to any modifications made to any Unit of Equipment whether they are due to defective material or workmanship or to other inadequacies in such Unit.

Where a failure of 25% of a guaranteed item occurs within the guarantee period, the remaining items shall receive repairs or adjustments under the guarantee, including those that have passed beyond the guarantee period before that failure was recognized.

The period of guarantee on a spare part shall commence on the date the part is placed in service by the Railroad and shall terminate upon the earlier of (a) the date which is one year after such spare part is first put in service by the Railroad or, (b) the date when such part has been in service for 100,000 miles.

Equipment reliability must be such to insure 90% daily availability (method of calculation to be by mutual agreement between Railroad and Builder) of the Equipment exclusive of out of service time (commencing when the Unit of Equipment is delivered to the shop or engine house designated by Builder to make the necessary repairs) as a result of derailment, collision or act of God and not exceeding 24 hours in any 30-day period for periodic maintenance as required by law. Railroad will be responsible to insure that repair time is consistent with such shop's established practice and adjustment shall be made for any excess out of service hours resulting from delaying action of Railroad or its representative. Liquidated damages of \$200 per day shall be paid for each day for each Unit of Equipment which fails to meet this requirement during the initial warranty period of two years or 350,000 miles.

(b) *Repairs or Alterations.* The Builder's guarantee shall not apply to any Unit of Equipment which shall have been repaired or altered in a manner which is not in accordance with standards generally accepted in the railroad industry or which does not have the approval of the Builder. However, the Builder's guarantee shall not extend to parts that are not manufactured by the Builder and that are used in the repair or alteration of any Unit. In the case of repairs made by the Builder or by his authorized representative his approval shall be implied.

(c) *Specialties.* The Builder warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to the Builder.

(d) *Miscellaneous.* There are no warranties with respect to material and workmanship, expressed or implied, made by the Builder except the warranties set out above.

The Builder further agrees with the Railroad that neither the inspection as provided in Section 2 of the Agreement, nor any examination, nor the acceptance of any Units of the Equipment as provided in said Section 2 shall be deemed a waiver or a modification by the Railroad of any of its rights under this Item 1.

Item 2.

Except to the extent the Builder is obligated under this Agreement to indemnify, protect and hold harmless each assignee of any rights of the Builder under the Agreement, the Railroad agrees to indemnify, protect and hold harmless each such assignee from and against any and all liabilities, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any Unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

The Builder shall defend any suit or proceeding brought against the Railroad, any assignee of the Railroad and/or each assignee of the Builder's rights under this Agreement so far as the same is based on a claim that the Equipment of Builder's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at Builder's expense) for the defense of same, and the Builder shall pay all damages and costs awarded therein against the Railroad, any assignee of the Railroad and/or any such assignee of the Builder.

In case any Unit of the Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such Unit or part is enjoined, the Builder shall at its option and at its own expense either procure for the Railroad, any assignee of the Railroad and any such assignee of the Builder the right to continue using such Unit or part, or replace the same with non-infringing equipment subject to the Agreement, or modify it so it becomes non-infringing, or remove such Unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of the Builder's rights under the Agreement if the Agreement has been so assigned, which refund shall be applied in like manner as payments in respect of Casualty Occurrences under Section 7 of the Agreement and, to the extent such refund exceeds the Casualty Value, such excess shall be paid to the Railroad.

The Builder will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

The foregoing states the entire liability of the Builder for patent infringement by the Equipment or any part thereof.